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25 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

26 **COUNTY OF LOS ANGELES**

18 PICO NEIGHBORHOOD ASSOCIATION and 19 MARIA LOYA, 20 Plaintiffs, 21 v. 22 CITY OF SANTA MONICA, and DOES 1 through 100, inclusive, 23 Defendants. 24 25 26 27 28	CASE NO. BC616804 [PROPOSED] JUDGMENT Dept.: 28 [Assigned to the Honorable Yvette Palazuelos]
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1 This cause came on for trial pursuant to notice and order of the Court on August 1, 2018, in
2 Department 28 of the Los Angeles Superior Court, Hon. Yvette M. Palazuelos, judge presiding. The
3 trial concluded on September 13, 2013. Plaintiffs, Maria Loya and Pico Neighborhood Association,
4 appeared through their attorneys of record: Kevin I. Shenkman and Andrea Alarcon of Shenkman &
5 Hughes PC; R. Rex Parris and Ellery Gordon of the Parris Law Firm; Milton Grimes and Robert
6 Rubin. Defendant, City of Santa Monica, California, appeared through its attorneys of record:
7 Marcellus McRae, Kahn Scolnick, Tiaunia Henry, Daniel Adler and Michelle Maryott of Gibson Dunn
8 & Crutcher LLP and George Cardona of the Santa Monica City Attorney's Office.

9 At the conclusion of the trial on September 13, 2018, the parties submitted briefing in lieu of
10 closing statements. On November 8, 2018, this Court issued its Tentative Decision, finding in favor of
11 Plaintiffs on both of their causes of action: 1) violation of the California Voting Rights Act of 2001
12 ("CVRA"); and 2) violation of the Equal Protection Clause of the California Constitution. Defendant
13 requested a Statement of Decision on November 15, 2018. On November 8, 2018, this Court also
14 ordered the parties to address proposed remedies through briefing and at a hearing on December 7,
15 2018. At that hearing, in addition to the counsel who appeared at the August 1 – September 13, 2018
16 trial, Theodore Boutrous of Gibson Dunn & Crucher LLP appeared on behalf of Defendant. On
17 December 12, 2018, this Court issued a First Amended Tentative Decision, prohibiting Defendant
18 from employing any further at-large elections for any seats on its city council and ordered that all
19 future elections for any seats on Defendant's city council shall be district-based elections (as defined
20 by the CVRA) in accordance with the map attached thereto. On December 12, 2018 this Court also
21 directed Plaintiffs to prepare a proposed judgment for this Court. On January 2, 2019, this Court
22 provided further clarification of its First Amended Tentative Decision, specifically regarding the
23 selection of appropriate remedies.

24 After hearing and considering all of the testimony, evidence and arguments presented, and
25 having issued its Statement of Decision, the Court now enters its Judgment in the above-captioned
26 case.

27 // /

28 // /

1 The Court finds as follows:

2 1. Plaintiff Maria Loya is registered to vote, and resides within the City of Santa Monica,
3 California. She is a member of a “protected class” as that term is defined in California Elections Code
4 Section 14026. Plaintiff Pico Neighborhood Association is an organization with members who, like
5 Maria Loya, reside in Santa Monica, are registered to vote, and are members of a protected class.
6 Plaintiff Pico Neighborhood Association’s organizational mission is germane to the subject of this
7 case – namely, advocating for the interests of Pico Neighborhood residents, including to the city
8 government, where Latinos are concentrated in Santa Monica.

9 2. Defendant is a political subdivision as that term is defined in California Elections Code
10 Section 14026. The governing body of Defendant is the City Council of Santa Monica, California.
11 The City Council of Santa Monica, California is elected by an “at large method of election” as that
12 term is defined in California Elections Code Section 14026.

13 3. Plaintiffs have demonstrated that elections in Santa Monica, namely elections for
14 Defendant’s city council involving at least one Latino candidate, are consistently and significantly
15 characterized by “racially-polarized voting” as that term is defined in California Elections Code
16 Section 14026.

17 • Analyzing elections over the past twenty-four years, a consistent pattern of racially-
18 polarized voting emerges. In most elections where the choice is available, Latino
19 voters strongly prefer a Latino candidate running for Defendant’s city council, but,
20 despite that support, the preferred Latino candidate loses. As a result, though Latino
21 candidates are generally preferred by the Latino electorate in Santa Monica, only one
22 Latino has been elected to the Santa Monica City Council in the 72 years of the current
23 election system – 1 out of 71 to serve on the city council.

24 • Though not necessary to show a CVRA violation, Plaintiffs have also demonstrated
25 other factors supporting the finding of a violation of the CVRA, pursuant to Elections
26 Code section 14028(e), including a history of discrimination in Santa Monica; the use
27 of electoral devices or other voting practices or procedures that may enhance the
28 dilutive effects of at-large elections; that Latinos in Santa Monica bear the effects of

1 past discrimination in areas such as education, employment, and health, which hinder
2 their ability to participate effectively in the political process; the use of overt or subtle
3 racial appeals in political campaigns; and a lack of responsiveness by the Santa Monica
4 city government to the Latino community concentrated in the Pico Neighborhood.

5 4. In the face of racially polarized voting patterns of the Santa Monica electorate, Defendant
6 has imposed an at-large method of election in a manner that impairs the ability of Latinos to elect
7 candidates of their choice or influence the outcome of elections, as a result of the dilution or the
8 abridgment of the rights of Latino voters.

9 5. The City of Santa Monica amended its charter in 1946, adopting its current council-
10 manager form government and current at-large election system. The precise terms of that charter
11 amendment, and specifically the form of elections to be employed, were decided upon by a Board of
12 Freeholders. In 1992, Defendant's city council rejected the recommendation of the Charter Review
13 Committee to scrap the at-large election system. In each instance, the adoption and/or maintenance of
14 at-large elections was done with a discriminatory purpose, and has had a discriminatory impact.

15 6. The CVRA does not require the imposition of district-based elections. The Court
16 considered cumulative voting, limited voting and ranked choice voting as potential remedies to
17 Defendant's violation of the CVRA. Plaintiffs presented these at-large alternatives for the Court's
18 consideration, but both Plaintiffs and Defendant agreed that the most appropriate remedy would
19 indeed be a district-based remedy. While the Court finds that each of these alternatives would
20 improve Latino voting power in Santa Monica, the Court finds that the imposition of district-based
21 elections is an appropriate remedy to address the effects of the established history of racially-polarized
22 voting.

23 7. During the trial, Plaintiffs' expert presented a district plan. That district plan included a
24 district principally composed of the Pico Neighborhood, where Santa Monica's Latino community is
25 concentrated. Districts drawn to remedy a violation of the CVRA should be nearly equal in
26 population, and should not be drawn in a manner that may violate the federal Voting Rights Act.
27 Other factors may also be considered -- the topography, geography and communities of interest of the
28 city should be respected, and the districts should be cohesive, contiguous and compact. *See* Elections

1 Code Section 21620. Districts drawn to remedy a violation of the CVRA should not be drawn to
2 protect current incumbents. Incumbency protection is generally disfavored in California. (*See*
3 California Constitution Art. XXI Section 2(e)). The place of residence of incumbents or political
4 candidates is not one of the considerations listed in Section 21620 of the Elections Code. Race should
5 not be a predominant consideration in drawing districts unless necessary to remedy past violation of
6 voting rights. The district plan presented by Plaintiffs' expert properly takes into consideration the
7 factors of topography, geography, cohesiveness, contiguity and compactness of territory, and
8 community of interest of the districts, and race was not a predominant consideration.

9 8. The current members of the Santa Monica City Council were elected through unlawful
10 elections. The residents of the City of Santa Monica deserve to have a lawfully elected city council as
11 soon as is practical. The residents of the City of Santa Monica are entitled to have a council that truly
12 represents all members of the community. Latino residents of Santa Monica, like all other residents of
13 Santa Monica, deserve to have their voices heard in the operation of their city. This can only be
14 accomplished if all members of the city council are lawfully elected. To permit some members of the
15 council to remain who obtained their office through an unlawful election may be a necessary and
16 appropriate interim remedy but will not cure the clear violation of the CVRA and Equal Protection
17 Clause.

18
19 **THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that
20 Defendant has violated the California Voting Rights Act (California Elections Code Sections 14025 –
21 14032).

22 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant's plurality at-
23 large elections for its City Council violate Elections Code Sections 14027 and 14028.

24 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant has violated
25 the Equal Protection Clause of the California Constitution (California Constitution, Article I Section
26 7).

27 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant's plurality at-
28 large elections for its City Council violate the Equal Protection Clause of the California Constitution.

1 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant is
2 permanently enjoined from imposing, applying, holding, tabulating, and/or certifying any further at-
3 large elections, and/or the results thereof, for any positions on its City Council.

4 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant is
5 permanently enjoined from imposing, applying, holding, tabulating, and/or certifying any elections,
6 and/or the results thereof, for any positions on its City Council, except an election in conformity with
7 this judgment.

8 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that all further elections,
9 from the date of entry of this judgment for any seats on the Santa Monica City Council, shall be
10 district-based elections, as defined by the California Voting Rights Act, in accordance with the map
11 attached hereto as Exhibit A. The metes and bounds of each district, as depicted in the map attached
12 as Exhibit A, are described using TIGER line segments (used to define census block geography) as
13 follows:

14

15 District #1

16 The region bounded and described as follows:
17 Beginning at the point of intersection of Alley between Princeton and Harvard and Broadway, and
18 proceeding southerly along Alley between Princeton and Harvard to Colorado Ave, and proceeding
19 northerly along Colorado Ave to Stewart St, and proceeding southerly along Stewart St to Olympic
20 Blvd, and proceeding easterly along Olympic Blvd to City Boundary, and proceeding easterly along
21 City Boundary to Pico Blvd, and proceeding westerly along Pico Blvd to 22nd St, and proceeding
22 southerly along 22nd St to Alley south of Pico Blvd, and proceeding westerly along Alley south of
23 Pico Blvd to 20th St, and proceeding northerly along 20th St to Pico Blvd, and proceeding westerly
24 along Pico Blvd to Lincoln Blvd, and proceeding northerly along Lincoln Blvd to Broadway, and
25 proceeding easterly along Broadway to Alley between 9th and 10th St, and proceeding northerly along
26 Alley between 9th and 10th St to Santa Monica Blvd, and proceeding easterly along Santa Monica
27 Blvd to 16th St, and proceeding southerly along 16th St to Broadway, and proceeding easterly along
28 Broadway to Alley between 17th and 18th St, and proceeding southerly along Alley between 17th and

1 18th St to Colorado Ave, and proceeding northerly along Colorado Ave to Alley between 19th and
2 20th St, and proceeding northerly along Alley between 19th and 20th St to Broadway, and proceeding
3 northerly along Broadway to the point of beginning.

4

5 **District #2**

6 The region bounded and described as follows:

7 Beginning at the point of intersection of City Boundary and Pico Blvd, and proceeding southerly along
8 City Boundary to NE boundary of Census Block 060377022021010, and proceeding westerly along
9 NE boundary of Census Block 060377022021010 to 11th St, and proceeding northerly along 11th St
10 to Marine Pl N, and proceeding westerly along Marine Pl N to Alley east of Lincoln Blvd, and
11 proceeding westerly along Alley east of Lincoln Blvd to Pier Ave, and proceeding westerly along Pier
12 Ave to Lincoln Blvd, and proceeding westerly along Lincoln Blvd to Hill Pl N, and proceeding
13 easterly along Hill Pl N to 11th St, and proceeding northerly along 11th St to Pico Blvd, and
14 proceeding easterly along Pico Blvd to 20th St, and proceeding southerly along 20th St to Alley south
15 of Pico Blvd, and proceeding easterly along Alley south of Pico Blvd to 22nd St, and proceeding
16 northerly along 22nd St to Pico Blvd, and proceeding easterly along Pico Blvd to the point of
17 beginning.

18

19 **District #3**

20 The region bounded and described as follows:

21 Beginning at the northmost point of City Boundary, and proceeding southeasterly along City
22 Boundary to Montana Ave, and proceeding westerly along Montana Ave to 20th St, and proceeding
23 southerly along 20th St to Idaho Ave, and proceeding westerly along Idaho Ave to 9th St, and
24 proceeding northerly along 9th St to Montana Ave, and proceeding westerly along Montana Ave to
25 Montana Ave Extension, and proceeding southerly along Montana Ave Extension to City Boundary,
26 and proceeding northerly along City Boundary to the point of beginning.

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28 ///

1 District #4

2 The region bounded and described as follows:

3 Beginning at the City Boundary at the intersection of Montana Ave and 26th St, and proceeding
4 easterly along City Boundary to Olympic Blvd, and proceeding westerly along Olympic Blvd to
5 Stewart St, and proceeding westerly along Stewart St to Colorado Ave, and proceeding westerly along
6 Colorado Ave to Alley between Princeton and Harvard, and proceeding northerly along Alley between
7 Princeton and Harvard to Broadway, and proceeding westerly along Broadway to Princeton St, and
8 proceeding northerly along Princeton St to Santa Monica Blvd, and proceeding westerly along Santa
9 Monica Blvd to Chelsea Ave, and proceeding northerly along Chelsea Ave to Wilshire Blvd, and
10 proceeding westerly along Wilshire Blvd to 17th St, and proceeding northerly along 17th St to Idaho
11 Ave, and proceeding easterly along Idaho Ave to 20th St, and proceeding northerly along 20th St to
12 Montana Ave, and proceeding easterly along Montana Ave to Unlabeled, and proceeding northerly
13 along Unlabeled to Montana Ave, and proceeding easterly along Montana Ave to the point of
14 beginning.

15
16 District #5

17 The region bounded and described as follows:

18 Beginning at the point of intersection of Chelsea Ave and Wilshire Blvd, and proceeding easterly
19 along Chelsea Ave to Santa Monica Blvd, and proceeding easterly along Santa Monica Blvd to
20 Princeton St, and proceeding southerly along Princeton St to Broadway, and proceeding westerly
21 along Broadway to Alley between 19th and 20th St, and proceeding southerly along Alley between
22 19th and 20th St to Colorado Ave, and proceeding westerly along Colorado Ave to Alley between 17th
23 and 18th St, and proceeding northerly along Alley between 17th and 18th St to Broadway, and
24 proceeding westerly along Broadway to 16th St, and proceeding northerly along 16th St to Santa
25 Monica Blvd, and proceeding southerly along Santa Monica Blvd to Alley between 9th and 10th St,
26 and proceeding southerly along Alley between 9th and 10th St to Broadway, and proceeding westerly
27 along Broadway to 7th St, and proceeding northerly along 7th St to Wilshire Blvd, and proceeding
28 easterly along Wilshire Blvd to Lincoln Blvd, and proceeding westerly along Lincoln Blvd to Montana

1 Ave, and proceeding easterly along Montana Ave to 9th St, and proceeding southerly along 9th St to
2 Idaho Ave, and proceeding easterly along Idaho Ave to 17th St, and proceeding easterly along 17th St
3 to Wilshire Blvd, and proceeding easterly along Wilshire Blvd to the point of beginning.

4

5 **District #6**

6 The region bounded and described as follows:
7 Beginning at the point of intersection of Lincoln Blvd and Montana Ave, and proceeding southerly
8 along Lincoln Blvd to Wilshire Blvd, and proceeding westerly along Wilshire Blvd to 7th St, and
9 proceeding southerly along 7th St to Broadway, and proceeding easterly along Broadway to Lincoln
10 Blvd, and proceeding southerly along Lincoln Blvd to Bay St, and proceeding westerly along Bay St
11 to Ocean Front Walk, and proceeding northerly along Ocean Front Walk to Pico Blvd Extension, and
12 proceeding westerly along Pico Blvd Extension to City Boundary, and proceeding westerly along City
13 Boundary to Montana Ave Extension, and proceeding easterly along Montana Ave Extension to
14 Montana Ave, and proceeding northerly along Montana Ave to Unlabeled, and proceeding easterly
15 along Unlabeled to Montana Ave, and proceeding easterly along Montana Ave to the point of
16 beginning.

17

18 **District #7**

19 The region bounded and described as follows:
20 Beginning at the point of intersection of 11th St and Pico Blvd, and proceeding southerly along 11th St
21 to Hill Pl N, and proceeding westerly along Hill Pl N to Lincoln Blvd, and proceeding easterly along
22 Lincoln Blvd to Pier Ave, and proceeding easterly along Pier Ave to Alley east of Lincoln Blvd, and
23 proceeding easterly along Alley east of Lincoln Blvd to Marine Pl N, and proceeding easterly along
24 Marine Pl N to 11th St, and proceeding southerly along 11th St to NE boundary of Census Block
25 060377022021010, and proceeding easterly along NE boundary of Census Block 060377022021010 to
26 City Boundary, and proceeding westerly along City Boundary to Unlabeled, and proceeding westerly
27 along Unlabeled to City Boundary, and proceeding westerly along City Boundary to Pico Blvd
28 Extension, and proceeding easterly along Pico Blvd Extension to Ocean Front Walk, and proceeding

1 southerly along Ocean Front Walk to Bay St, and proceeding easterly along Bay St to Lincoln Blvd,
2 and proceeding northerly along Lincoln Blvd to Pico Blvd, and proceeding easterly along Pico Blvd to
3 the point of beginning.

4

5 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant shall hold a
6 district-based special election, consistent with the district map attached as Exhibit A, on July 2, 2019
7 for each of the seven seats on the Santa Monica City Council, and the results of said special election
8 shall be tabulated and certified in compliance with applicable sections of the Elections Code.

9

10 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that any person, other than a
11 person who has been duly elected to the Santa Monica City Council through a district-based election
12 in conformity with this judgment, is prohibited from serving on the Santa Monica City Council after
August 15, 2019.

13

14 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that this Court retains
jurisdiction to interpret and enforce this judgment and the Settlement Agreement and to adjudicate any
disputes regarding implementation or interpretation of this judgment.

15

16 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that, pursuant to Elections
Code Section 14030 and Code of Civil Procedure Section 1021.5, Plaintiffs are the prevailing and
successful parties and are entitled to recover reasonable attorneys' fees and costs, including expert
witness fees and expenses, in an amount to be determined by noticed motion for an award of
attorneys' fees and a memorandum of costs for an award of costs, including expert witness fees and
expenses.

17

18 The Clerk is directed to enter this Judgment.

19

20 Dated: _____

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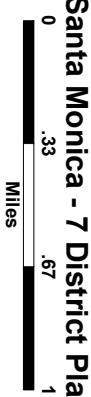
Hon. Yvette M. Palazuelos
Judge of the Los Angeles Superior Court

EXHIBIT “A”

Santa Monica - 7 District Plan

Miles

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PROOF OF SERVICE
1013A(3) CCP Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 43364 10th Street West, Lancaster, California 93534.

On January 3, 2019, I served the foregoing document described as **[PROPOSED JUDGEMENT]** as follows:

*** *See Attached Service List* ***

[x] **BY MAIL as follows:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U. S. postal service on that same day with postage thereon fully prepaid at Lancaster, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[] **BY PERSONAL SERVICE as follows:**

[] I delivered such envelope by hand to the addressees at 111 North Hill Street, Los Angeles, CA 90012. _____

[] I caused the foregoing document described hereinabove to be personally delivered by hand by placing it in a sealed envelope or package addressed to the persons at the addresses listed on the attached service list and provided it to a professional messenger service whose name and business address is Team Legal, Inc., 40015 Sierra Highway, Suite B220, Palmdale, CA 93550.

[] I caused the foregoing document described hereinabove to be personally delivered by hand by placing it in a sealed envelope or package addressed to the persons at the addresses listed on the attached service list and provided it to a professional messenger service whose name and business address is First Legal Support Services, 1511 West Beverly Blvd., Los Angeles, CA 90026.

[] **BY FACSIMILE as follows:** I served such document(s) by fax at See Service List to the fax number provided by each of the parties in this litigation at Lancaster, California. I received a confirmation sheet indicating said fax was transmitted completely.

[] **BY GOLDEN STATE OVERNIGHT DELIVERY/OVERNIGHT MAIL as follows:** I placed such envelope in a Golden State Overnight Delivery Mailer addressed to the above party or parties at the above address(es), with delivery fees fully pre-paid for next-business-day delivery, and delivered it to a Federal Express pick-up driver before 4:00 p.m. on the stated date.

1 [] **BY ELECTRONIC SERVICE as follows:** Based on a court order, or an
2 agreement of the parties to accept service by electronic transmission, I caused the
3 documents to be sent to the persons at the electronic notification addressed listed
4 on the attached Service List.

5 Executed on January 3, 2019, at Lancaster, California.

6 X (State) I declare under penalty of perjury under the laws of the State of California
7 that the above is true and correct.

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Marci Cussimonio

SERVICE LIST

Pico Neighborhood Association v. City of Santa Monica, California, et al.

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